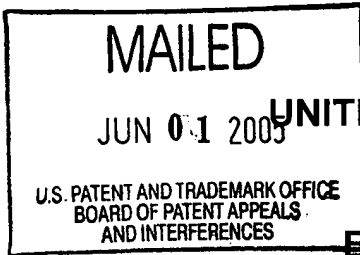


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 40



UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte STEVEN R. BOYE, RAJAGOPAL LAKSHMINARAYAN, MICHAEL R. SHUMAN,
BERNARD DESARNAUTS, MARC E. ESCABOSA and VICTOR B. ZAUDERER

Appeal No. 2005-0248
Application No. 08/827,634

HEARD: May 5, 2005

Before HAIRSTON, LEVY, and MACDONALD, Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 5 and 8 through 19.

The disclosed invention relates to a method and system for preserving a preferred presentation layout of a web page authored on a first computing system and displayed on a second computing system. The layout is preserved notwithstanding the fact that the layout is susceptible to influence by the browser configuration of the second computing system.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for preserving a preferred presentation layout of a web page authored on a first computing system and rendered on one or more second computing systems, wherein, said layout is susceptible to influence by browser configuration on said one or more second computing systems, said method, comprising:

obtaining a layout of display elements on a web page;

determining, using a first computing system, a primary split direction for the web page, preserving a preferred layout of said web page when rendered by one or more second computing systems, wherein said preferred layout is susceptible to influence by browser configuration on said one or more second computing systems; and

determining splits of the web page, in the primary split direction.

The references relied on by the examiner are:

Templeman	5,845,303	Dec. 1, 1998 (effective filing date Dec. 6, 1994)
Nielsen	5,897,644	Apr. 27, 1999 (filed Sept. 25, 1996)

Laura Lemay (Lemay), "Teach Yourself Web Publishing with HTML in a Week," SAMS Publishing, 1995, pages 306, 346 and 348.

Claims 1 through 5 and 8 through 19 stand rejected under the second paragraph of 35 U.S.C. § 112 for indefiniteness.

Claims 1 through 5, 8 and 10 through 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Templeman in view of Nielsen.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Templeman in view of Nielsen and Lemay.

Reference is made to the briefs (paper numbers 31 and 34) and the answer (paper number 32) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the indefiniteness rejection of claims 1 through 5 and 8 through 19, sustain the obviousness rejections of claims 1, 2, 4, 5 and 10 through 19, and reverse the obviousness rejections of claims 3, 8 and 9.

Turning first to the indefiniteness rejection, the examiner states (answer, page 3) that “the phrase regarding a layout as ‘*susceptible to influence*’ by browser configuration, in each of said claim[s] is vague and indefinite.” The examiner further explains (answer, page 9) that:

This phrase does not serve to define the scope of the claimed limitations, because it is unclear if any action is to be taken. Something which is “*susceptible to influence*” is not a definitive phrase, and does not serve to define the claims so that the metes and bounds of claimed coverage is clear. The examiner wonders how Appellant intends to litigate the claims if this phrase is included. Appellant argues that one can be his/her lexicographer (Appellant also refers to a dictionary definition-Exhibit 1), and additionally argues that the Final Office Action’s response only reinforces Appellant’s position. It is respectfully noted that the examiner rejects the claims under 35 U.S.C. 103(a) based upon a possible interpretation of the phrase “*susceptible to influence*”, as a layout influenced by browser configuration.

Appellants explain (specification, page 2) that “[g]iven the current state of browsers, the human designer of a web page has no control over how various browsers executing on different platforms will display text.” Based upon such disclosure, we find that the claimed

layout at the sending platform is indeed sensitive to and is likely to be affected (i.e., “susceptible to influence”) by the unknown browser at the receiving platform. The same interpretation provided to the claims under 35 U.S.C. § 103(a) should be applied to the claims under the second paragraph of 35 U.S.C. § 112 since the metes and bounds of the claimed invention is clear. Thus, the indefiniteness rejection of claims 1 through 5 and 8 through 19 is reversed.

Turning next to the obviousness rejection of claims 1, 10, 11 and 12, we agree with the examiner’s findings (answer, pages 4 and 5) concerning the teachings of Templeman. Templeman is concerned with preserving a preferred presentation layout of a so-called metaform authored on a first computer system as a website via the HyperText Markup Language (HTML) (column 7, lines 59 through 67). Appellants’ argument (brief, page 9) to the contrary notwithstanding, HTML is used to create web pages. We agree with the examiner (answer, page 5) that the metaform 80 (Figure 3A) displays a primary vertical split direction between the two body columns 88 and 90 (column 8, lines 60 through 65), and that the split direction is determined by the selection of the metaform. Templeman seeks to preserve the layout of the metaform on the web page, but realizes that the vast differences between the receiving platforms (i.e., a PDA versus a desktop computer) will probably lead to display of the metaform in another format (column 2, lines 12 through 14 and 47 through 54; column 3, lines 2 through 8; column 11, line 61 through column 12, line 4). Although “Templeman does not specifically teach said layout presentation

influenced by browser configuration" (answer, page 5), he does, however, inferentially teach that the browser in the receiving platform will exercise control of the metaform based upon his recognition that a PDA differs from a desktop computer (column 2, lines 47 through 51). The teachings of Nielsen will, therefore, be treated as merely cumulative to the teachings already present in Templeman. In summary, the obviousness rejection of claims 1, 10, 11 and 12 is sustained.

The obviousness rejection of claims 1 and 4 is sustained because appellants have not presented any patentability arguments for these claims apart from those presented for claim 1.

The obviousness rejection of claim 5 is sustained because Templeman discloses at least one metaform on the web page with a layout that is primarily by columns based upon the particular metaform selected for display.

The obviousness rejection of claim 3 is reversed because any locking of the web page would defeat the whole purpose of the Templeman teaching to accommodate the differences between the various receiving platforms.

The obviousness rejection of claim 8 is reversed because the examiner has not demonstrated that the skilled artisan would have generated the web page layout "after" the publish request from a user.

The obviousness rejection of claim 9 is likewise reversed because of a lack of a convincing showing by the examiner that the skilled artisan would have known from the

teachings of the applied references to generate the web page layout "after" receiving a preview request from a user.

The obviousness rejection of claims 13 through 18 is sustained because appellants have not presented any patentability arguments for these claims apart from the arguments presented for claim 12.

The obviousness rejection of claim 19 is sustained because the metaform software in Templeman will determine the split (i.e., columns) for each metaform display frame (column 5, lines 46 through 49).

DECISION

The decision of the examiner rejecting claims 1 through 5 and 8 through 19 under the second paragraph of 35 U.S.C. § 112 is reversed. The decision of the examiner rejecting claims 1 through 5 and 8 through 19 under 35 U.S.C. § 103(a) is affirmed as to claims 1, 2, 4, 5 and 10 through 19, and is reversed as to claims 3, 8 and 9.

AFFIRMED-IN-PART

BOARD OF PATENT
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